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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/883,991	06/20/2001	Bruce H. Levin	10527/11	5652

23838 7590 10/12/2005

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WASHINGTON, DC 20005

EXAMINER

PEFFLEY, MICHAEL F

ART UNIT	PAPER NUMBER
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3739

DATE MAILED: 10/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/883,991	LEVIN, BRUCE H.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Michael Peffley	3739	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 28 July 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-59, 61, 62 and 64-72 is/are pending in the application.
- 4a) Of the above claim(s) 1-48, 64 and 65 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 49-59, 61, 62 and 66-72 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

Applicant's amendments and comments, received July 28, 2005, have been fully considered by the examiner. The following is a complete response to the July 28, 2005 communication.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

***Election/Restrictions***

Claims 1-48, 64 and 65 remain withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 5.

***Claim Rejections - 35 USC § 103***

Claims 49-59, 61, 62, 66 and 68-72 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ishikawa et al (6,366,206) in view of the teaching of Flach et al (6,589,170)

The Ishikawa et al system has been addressed in the previous Office action. Ishikawa et al disclose a medical label system which includes a label (15) including an integrated circuit which identifies a medical product by transmitting an RF identifier signal. The system includes a computer (17) which receives the information and tracks the location (i.e. presence) of the medical product. The label is used to identify and track various medical products including medications, gloves, instruments and sponges. Ishikawa et al fail to disclose a plurality of sensors, including at least a first sensor in a first location and a second sensor in a second location to track the location of the medical device at various locations.

Flach et al disclose a medical tracking system which employs a number of ID tags (102A) and includes a computer system (116) that is used to monitor the exact location of each of the ID tags as they move throughout the tracking area (i.e. hospital). The system includes a number of sensors (i.e. VCELLs) and tracks the location of an ID tag by sensing when the ID tag is near a particular sensor.

With regard to the various materials for the label, the examiner maintains that the materials used to create the label would obviously, if not inherently, provide temperature, shock and water resistant properties. Also, Ishikawa et al disclose several products which are labeled including prescription medication and medical devices, but fail to specifically disclose the use of the label to identify blood products. It is the examiner's position that one of ordinary skill in the art would recognize that such a label may be used to identify and track any product, including blood products, and would also obviously recognize the various data which may be saved by such a label.

To have provided the Ishikawa et al system with a plurality of sensors and a computer control system to monitor and store the location of one or more of the RFID tags in a prescribed tracking area to allow a user to promptly identify the location of a medical product in a hospital setting would have been an obvious consideration for one of ordinary skill in the art in view of the teaching of Flach et al. To have further provided the label on any medical or non-medical product, including blood products, to identify and track the product would have been an obvious consideration for one of ordinary skill in the art.

Claim 67 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ishikawa et al ('206) and Flach et al ('170) in view of the teaching of Imaichi et al ('747).

While Ishikawa et al disclose an integrated circuit having an analog front end located on a label, there is no specific teaching or disclosure that the label includes an LC circuit.

The examiner maintains that the use of LC circuits in integrated circuit designs is very well known. Further, Imaichi et al specifically teach that it is known to provide RFID labels with an LC circuit on the tag (see Abstract).

To have provided the Ishikawa et al label system, as modified by the teaching of Flach et al, with an LC circuit on the label for communicating data would have been an obvious consideration for one of ordinary skill in the art, particularly since Imaichi et al teach that it is known to use LC circuits on RFID tags.

### ***Response to Arguments***

Applicant's arguments filed July 28, 2005 have been considered but are not persuasive.

Applicant states on page 12 of the July 28, 2005 response that the system of Flach et al does not include a computer system configured to associate a position of the label with a position of the sensors as required by claim 49. The examiner disagrees. Flach et al clearly teach that the sensors (i.e. VCELLs) are used to identify and track the location of patient's throughout the hospital. While the examiner concedes that the communication protocol of an RFID tag and that of the Flach et al telemetry system are slightly different, the examiner still maintains that there is sufficient suggestion to one of

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ordinary skill in the art to use multiple sensors in the Ishikawa et al system to monitor the labels at various locations in view of the teaching of Flach et al.

Applicant asserts that the examiner is using conclusory hindsight, reconstruction and speculation in combining the Flach et al teaching with the Ishikawa et al system. Again, the examiner disagrees. Both the Flach et al and the Ishikawa systems are concerned with tracking labels using RF energy. This Ishikawa et al disclosure is limited to tracking objects within a single location. However, the examiner maintains that the Flach et al system would reasonably suggest to one of ordinary skill in the art that it would be advantageous to track an item at a plurality of locations to identify the exact location of the item (e.g. in the operating room or in the preparation room) through use of a plurality of sensors. The examiner maintains that proper motivation and reasons for combining the Flach et al teaching with the Ishikawa et al system has been clearly provided.

Further, the examiner is citing additional prior art that suggests that it is generally known in the art to provide multiple sensors for tracking RFID labels at a plurality of locations. Isaacman et al (5,936,527) teaches the use of RFID tags and a plurality of sensors (18) to track items (i.e. documents) and identify the specific location of the items.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

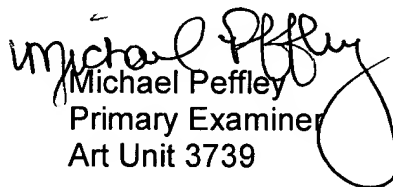
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Peffley whose telephone number is (571) 272-4770. The examiner can normally be reached on Mon-Fri from 6am-3pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda Dvorak can be reached on (571) 272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Michael Peffley  
Primary Examiner  
Art Unit 3739

mp  
October 10, 2005